

benefits to consumers of 'one-stop shopping' are substantial [It] is efficient and avoids the customer confusion that would result from having to contact various departments within an integrated, multi-service telecommunications company."⁶⁹ Indeed, the Commission refused to bar AT&T from using CPNI obtained from its interexchange service to market cellular services "because such a prohibition would undercut . . . the ability of AT&T/McCaw to offer its customers the ability to engage in 'one-stop shopping' for their telecommunications needs."⁷⁰

C. If the FCC Nonetheless Adopts Its Separate Affiliate Proposals, LEC/CMRS Arrangements Will Be Covered By Sections 251 And 252 Of The 1996 Act And Therefore Should Not Be Subject To Tariffs.

The *Notice's* separate affiliate proposal contains three elements: (1) the affiliate would be required to maintain separate books of account; (2) the affiliate would not be permitted to jointly own transmission or switching facilities with the exchange telephone company; and (3) the affiliate would be required to obtain any exchange telephone company-provided communications services at tariffed rates and conditions.⁷¹ As discussed above, the record demonstrates that a separate affiliate requirement is unwarranted. However, if the FCC nonetheless adopts this "safeguard," CMRS affiliates interconnecting to the LEC's network should not be required to obtain this service at a tariffed rate. Such a requirement is contrary to Section 252 of the 1996 Act, which provides that interconnection arrangements are governed by contract. Thus, LEC CMRS affiliates should not be singled out for tariffing requirements, particularly since Section 251's non-discriminatory provisions ensure that unaffiliated

⁶⁹ *AT&T/McCaw Transfer Recon. Order*, 10 FCC Rcd 11786, 11795-96 (1995).

⁷⁰ 9 FCC Rcd 5836, 5885-86 (1994).

⁷¹ *Notice*, ¶ 118.

telecommunications carriers can gain interconnection to the ILEC's network at the same rates, terms, and conditions.

IV. THE RECORD SHOWS THAT THE SUBSTANTIAL COSTS OF THE PROPOSED NEW REGULATIONS FOR TIER 1 LECS WOULD FAR OUTWEIGH ANY POTENTIAL PUBLIC INTEREST BENEFITS.

A. The FCC Itself Has Acknowledged The Substantial Costs Of The Proposed Regulations.

As GTE and others noted in their opening Comments, it was only three years ago that the Commission expressly determined that separate affiliate requirements would seriously limit the ability of LECs to take advantage of their potential economies of scope and would jeopardize, if not eliminate, the public interest benefits sought through LEC participation in PCS.⁷² For this reason, the agency concluded that its existing interconnection and accounting rules rendered the imposition of additional safeguards unnecessary.

The *Notice's* proposed backpedaling is inexplicable, particularly since the Commission recognizes that the array of additional requirements currently under consideration would impose substantial burdens on LECs entering the CMRS market. In tentatively deciding not to impose novel structural separation requirements on all Tier 1 LECs, the *Notice* acknowledges that such requirements would add unnecessary costs to CMRS providers. In fact, the *Notice* specifically recognizes that, if required to operate through separate affiliates, non-Tier 1 LECs would bear the direct costs of establishing duplicative corporate structures with separate operations, facilities and

⁷² GTE at 26 (*citing* Amendment of the Commission's Rules to Establish New Personal Communications Services, 8 FCC Rcd 7700, 7751 (1993) ("*Broadband PCS Order*")); See also U S West at 2.

staff.⁷³ These cumbersome requirements would negate the operational efficiencies and price savings potentially derived from LEC/CMRS integration.⁷⁴

This same rationale applies equally to LECs of all sizes. Indeed, AT&T has previously underscored that there are legitimate benefits and efficiencies to be gained from integrating financial, technological, marketing, engineering, and service capabilities.⁷⁵ Specifically, AT&T stated that "imposition of the full range of Part 22 restrictions would destroy substantial benefits and legitimate efficiencies that the merger would achieve.... [I]t was to avoid these harms that the Commission previously refused to apply Part 22 to other LECs...."⁷⁶

Rather than adopting the *Notice's* proposals, the Commission accordingly should reaffirm its previous determination in the PCS context that separate affiliate requirements would jeopardize the public interest by reducing the ability of Tier 1 LECs to provide efficient and innovative offerings.⁷⁷ As GTE noted in its opening Comments, the provision of new services and innovations to customers may be impaired if LECs are not allowed to develop technological features which coordinate wire and wireless networks.⁷⁸ The fact that such costs would invariably be felt by LECs and their customers was not refuted even by those commenters who supported the extension of separation requirements to Tier 1 LECs.⁷⁹

⁷³ *Notice*, ¶ 92.

⁷⁴ *Id.*

⁷⁵ *AT&T/McCaw Opposition to Petitions to Deny Merger Application* at 35.

⁷⁶ *Id.* at 73.

⁷⁷ *Broadband PCS Order*, 8 FCC Rcd at 7751.

⁷⁸ GTE at 27.

⁷⁹ AT&T at 15; PUCO at 14-15.

B. No Evidence Has Been Introduced To Show That The Public Interest Would Be Served By These New Regulations.

Neither the *Notice*, nor the various comments filed by interested parties, provide factual showings to support the proposed policy reversal. Indeed, there is no evidence that the proposed regulations are necessary or will benefit the public interest. Aside from the general desire to achieve "regulatory symmetry,"⁸⁰ the *Notice* outlines no specific benefits to be gained from imposition of new regulations on LECs. Likewise, AT&T's broad assertion that the costs of imposing BOC-type requirements on all Tier 1 LECs, including structural separation, would be outweighed by supposed benefits, stands unsupported.⁸¹

The *Notice* and several commenters have hinted that certain LECs possess the "potential" for or "danger" of anticompetitive behavior, but have provided no evidence that such behavior has actually occurred. Indeed, as U S West notes, "[t]he source of the Commission's change of heart is not apparent, especially when given the absence of any complaint that LECs are violating current safeguards or are dominating the CMRS market."⁸² U S West further states "[t]his backpedaling on PCS is especially perplexing in view of the current competitive CMRS landscape, built-in safeguards that already exist (e.g., interconnection rules, spectrum caps), and the many changes which are revolutionizing the telecommunications industry."⁸³ GTE agrees. There was no

⁸⁰ *Notice*, ¶ 89. As detailed above and in its opening Comments, GTE believes that "symmetry" is an insufficient and improper justification for imposing the proposed rules.

⁸¹ AT&T at 15.

⁸² U S West at 3.

⁸³ *Id.*

evidence to support imposition of additional regulatory requirements on LEC provision of CMRS before, and there is no evidence to support such regulation now.


CONCLUSION

As detailed above, the record in this proceeding compellingly demonstrates that the public interest will not be served by imposing the proposed separate affiliate and nonstructural safeguards on non-BOC Tier 1 LECs. The Commission therefore should refrain from adopting the *Notice's* proposals. In addition, the Commission should summarily reject proposals by some commenters that seek to unnecessarily restrict the ability of LECs to compete effectively and to constrain their provision of "one stop shopping" offerings to American consumers.

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October 24, 1996

Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on October 24, 1996 to all parties on the attached list.


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